FOR MYSORE STATE

(1950) Department

% SERIES.

G.O. NO. 880

Dated 24-3-50

[Despatch Abstract.]

Tax — The Madras General Sales Tax Rules, 1939 — Rule 9 — Rebate under Section 7 — Amendment — proposal — papers recorded.

REVENUE DEPARTMENT.

Extract from Board's Ref. No. A.40/49-3 dated 11-7-1949.

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M.G.S.T. Act, 1939 - Certain difficulties - Representation by Hindusthan Chamber of Commerce and Madras Chamber of Commerce - Report - Submitted.

-:-:-

Reference

The Hindusthan Chamber of Commerce have made a representation to the Board requesting among other things, the following:-

(1) To avoid disallowing the claim for rebate under Section 7 for the reason that the claim is time-barred and that rule 9 of the M.G.S.T. Rules, 1939 should be amended suitably so as to give discretion to the assessing authority to accept rebate applications from dealers even after the prescribed time in bona fide cases.

x x x x x x

(1) The Board has examined the representation in consultation with the Dy. Commissioners. The Deputy Commissioners are of the view that there is some force in the representation. They think that some concession as in the case of rebate claims under rule 18(3) is necessary.

Point (1) According to rule 9 of the M.G.S.T. Rules rebate under section 7 can be given only when the claim is made within three months of the delivery of the articles outside Province.

For the grant of rebate under Section 7, the following have to be satisfied:--

(i) the goods involved must be articles of industrial manufacture (Section 7).

(ii) The legal sale must have taken place in this Province (Section 7).

(iii) The goods must have been actually delivered outside the province (Section 7).

(iv) The dealer must have collected only half the tax on such sales (Govt. letter No. 20877 N/48-2 dated 4-5-48); and

(v) The dealer must submit an application for rebate in the prescribed form within 3 months of the delivery of the articles outside the Province (rule 9 of the M.G.S.T. Rules).

Taking all these into consideration the relief requested for by the chamber has to be restricted only to cases wherein the first 3 points are satisfied and

and if the dealer has not collected any amount by way of sales tax having been under the bona file impression that his sales are not liable to tax as the sales were complete outside the province. When claims for exemption for sales outside the province are disallowed at the time of final assessment, there is a natural tendency to claim at least rebate under Section 7. By the time of the claim for rebate is made, it becomes time-barred under rule 9 of the M.G.S.T. Rules. The objection to grant rebate in such cases is only technicalky and the Board is of the opinion that as in the case of submission of statements under rule 18(3) of the (Turnover & Assessment) Rules, it will be fair to give relief in such cases by amplifying rule 9 of the M.G.S.T Rules, 1939 suitably. The Board therefore submits the following draft amendment to rule 9:--

Add the following at the end of rule 9 of the M.G.S.T. Rules, 1939:--

"or within a month from the date of assessment order disallowing the claim of transactions to be sales outside the province."

/True copy/

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REVENUE DEPARTMENT.

Memo.No.58934 N/49-2 dated 10--11--1949.

Tax - The Madras General Sales Tax Rules 1939 - Rule 9 - Rebate under section 7 - Amendment.

From the Board of Revenue, Ref.A.40/49-3 dated 11-7-1949.

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The attention of the Board of Revenue is invit to the draft amendment to rule 9 of the Madras General Sales Tax Rules, 1939, proposed in its reference quoted above.

The New Constitution, which is expected to com into force on 26-1-1950, contains amprovision which will make it illegal for a Province to levy a sales tax on exports outside the Province. All exports will therefore be free from sales tax and section 7 of the M.G.S.T Act will have to be deleted. The Madras General Sales Tax Act, 1939, shall have to be amended so as to conform

to the provisions of the New Constitution within a period of one year or so from the date of the coming into force of the Constitution. It seems therefore, hardly worthwhile at this stage to amend rule 9 of the Madr s General Sales Tax Rules in the manner suggested by the Board of Revenue. The Board is requested to state whether it agrees to the view expressed above.

2. As regards the adequacy of the draft amendment, it is pointed out that it does not provide for cases where an appeal or revision under sections 11 and 12 respectively has been preferred against the final orders of assessment and the question is not finally settled. It has therefore been suggested that it is necessary to provide for such cases also in the draft amendment to rule 9. The Board of Revenue is requested to state whether it agrees to the above suggestion and if so to submit necessary revised draft amendment to the rule if it does not agree to the view expressed in para 1 above.

/True copy/

REVENUE DEPARTMENT.

Subject.

TAX - M.G.S.T. Rules - Rule 9 - Rebate under section 7 - Amendment - Government Memo - Remarks - Submitted.

Station: Madras. B.P.Mis.35/50. Dated 10-2-1950.

From

Mr.S.M. Hussain, Secretary to the Commissioner of Commercial Taxes.

P.T.O.

Sri V.N. Kudva, I.C.S., Commr. of Commercial Taxes.

Read: Govt. Memo.No.58934 N/49-2 Revenue dated 10 ------
Dy. Commr. (Central L. Dis. 3621/49 dated 7-12-49.
" (North) " 5640/49 dated 26-12-49.
" (South) " 5524/49 dated 8-1-1950.

RESOLUTION

The Board submits that it agree... ...
Government's view expressed in para 1 of their M
above,

/True Extract/

(Sd.) x x
for SECRETARY (C.T.)

To
The Secretary to Govt., Revenue Department.
Copy to all Dy. Commissioner.s
Copy to all Clerks in A and B Sections with a co
G.O. Press 99 Rev. dated 11-1-50 and Govt.
cited above

Tax - The Madras General Sales Tax Rules 1939 - Rule 9 - Amendment.

Revenue Department.

Extract from Rev. Dept. file C.No.41993 N/49.

Tax - The M.G.S.T. Act, 1939 - Rebate under section 7 - Groundnut and castor oils - Applicability - Orders passed.

G.O.Ms.No.41, Rev., dated 6-1-1949.CBE.31/49.

-:-

To D.S.

The file has been opened with reference to A on p.3 nf of G.O.Ms.No.41, Rev., dated 6-1-1949.

2. A draft memo to the Bd. of Rev. submitted below is for approval.

V.K.R.
16-7-49.

(Issued as Memo.No.41993 N/49-1, d/16-7-49).
From the Bd. of Rev. Ref.A.49/49-3 d/11-7-49.
From the Bd. of Rev. Ref.A.40/49-4 d/21-7-49.

To D.S.

Please see the Board's reference at pp.2-4 c.f.

2. Under Section 7 of the Madras General Sales Tax Act, 1939, a rebate of one half of the tax paid on the sales of certain articles of industrial manufacture notified by the Provincial Govt. is allowed if such sales are for delivery outside the Province and such articles are actually so delivered. A dealer who desires to claim rebate under this section must submit to the assessing authority an application in Form VIII within three months of the delivery of the articles outside the Province -- Vide rule 9 of the M.G.S.T. Rules.

It is now represented by the Hindusthan Chamber of Commerce that difficulties are being experienced by the dealers in the working of this section. The Bd. of Ref. has examined the two main difficulties referred

to by the chamber and it has made certain suggestions to remove them. The suggestions are examined below:-

1) Amendment to rule 9 of the M.G.S.T. Rules:-

For the reasons stated in para 1 sub para (1) of its reference, the Bd. of Rev. has suggested an amendment to rule 9 of the M.G.S.T. Rules as at X on p.2 c.f. The effect of this amendment will be that a dealer whose claim for exemption from sales tax on a particular transaction, on the ground that the sale took place outside the Province, is disallowed by the assessing authority will be in a position to ppt forth his claim for rebate under section 7. In the circumstances, explained by the Board, there seems to be no objection to accept the amendment to rule 9 suggested by the Board. For orders.

After orders are passed, the file may be sent to Development, Finance and Legal for remarks before circulation.

V.K.R.
24-8-48.

Finance Department.

The proposals of Revenue in their note at pp.1-3 above may be agreed to in this Department.

C.S.K. 28-8-49.

T.N.S. 29-8-49.

Legal Department.

There is no legal objection to the amendments proposed to rule 9 of the General Sales Tax Rules and Forms A and A3 of the Turnover and Assessment Rules.

K.V.R. 3-9-49.

Revenue Department.

To D.S.

Please see the notes from p.1 ante.

2. The file may now be circulated to H.M.(FIN for orders.

(1) whether the amendment proposed to rule of the M.G.S.T. Rules proposed by the Bd. of Rev. at X on p.3 c.f. may be accepted and the rule amended accordingly;

~~(ii) whether the amend~~

M.G.M. 7-9-49.

Section 7 may remain till things take a final shape.

B.G.R. 14-9-49.

Revenue Department (N)

To D.S.

Please see the notes and the orders in circulation extracted above.

2. The extracts have been taken to amend rule 9 of the M.G.S.T. Rules, 1939 as proposed at A above. The amendment to any rule of the M.G.S.T. Rules requires previous publication of not less than 4 weeks - please see section 19(4) of the M.G.S.T. Act, 1939.

A draft memo publishing the amendment for general

information is submitted for approval. The file may be sent to Legal for scrutiny of the notification.

Rev. U.O. 58984 N/4 5-10-49.

Legal Department.

The draft amendment allows one month from the date of the assessment order. As this does not make any provision for the interval between the date of the order and its receipt by the assessee, Revenue may consider whether the time may not run from the date of the receipt of the order as in the case of appeals under rule 13.

2. It is also likely that the order disallowing the claim is appealed against under section 11 or a revision against it is preferred under section 12. The draft amendment does not provide for cases where an appeal or revision has been preferred and the question is still not finally settled. It appears necessary to provide for such cases also.

3. Subject to the above remarks, the alterations indicated in red ink on the draft notification may be made.

Legal U.O.No. 12886/49-1 13-10-49

Revenue Department (N)

Please see the notes from page 2 ante.

2. Para 1 of the Legal Dept's note above: This may agree to their suggestion that the period of one month allowed in the draft amendment to rule 9 of the M.G.S.T. Rules at X on page 2 c.f. may be calculated from the date of the receipt of the assessment order.

Para 2 above: The intention is to amplify rule 9 of the M.G.S.T. Rules as proposed in the draft amendment so as to make it possible for a dealer, whose claim for exemption from sales tax on the ground that sales were complete outside the Province are disallowed at the time of final assessment, to claim at least the rebate under Section 8. Legal consider that provision is necessary in the draft amendment in respect of cases where an appeal or revision under section 11 and 12 respectively has been preferred against the final order of assessment and the question is still not finally settled. It does not appear that this point was considered by the Board. Its views may therefore be obtained first. Subject to orders a draft memo. is submitted for approval.

Personally, I think it is too late in the ay to undertake this amendment. The new Constitution s expected to come into force on 26-1-50. It contains provision which will make it illegal for a province o levy a sales tax on exports outside the province. ll exports will therefore be free from sale tax and ection 7 will have to go. We shall have to amend xxx out Act so as to conform to the provisions of the ew constitution within a period of one year or so from he date of the coming into force of the constitutions t is therefore hardly worthwhile at this stage to mend the Rule in the manner suggested. The Board ay also be consulted whether it agrees.

Please see the orders above.

2. A revised draft memo. to the Board of Revenue is submitted for approval.

(Issued as Memo. No. 58934 N/49-2 dated 10-11-49)

From the Board of Revenue B.P.Ms.35/50 dated 10-2-50.

To D.S.

Please see the notes from page 1 ante. the memo. to the Bd. of Rev. at pages 3-4- c.f. and the Board 's report at page 5 c.f.

2. The Bd. agrees to the view that it is unnecessary to proceed to amend rule 9 of the Madras General Sales Tax Rules as suggested by it. No further action is therefore called for. The papers may be recorded after perusal by legal.

Rev. U.O.
58934 N/49-3
13-3-50

Legal Department.

In view of article 286 of the Constitution, this Department may agree that no further action need be taken.

The construction of caluses (1) and (2) of Article 286 presents difficulties, and exports outside the Province which fall within the scope of clause (2) may still be liable to tax. But, I agree it is not advisable to complicate matters by tinkering with Rule 9 at this time.

Legal
U.O. No.
3951/50-1
17-3-50

Revenue Dept.

Revenue Department

To D.S.

Please see the notes above.

2, The papers may be recorded as a G.O. as suggested at A above.

G.O.Ms.No.888, dated 24-3-1950.

/True Extract/

Abstract.

Tax - The Madras General Sales Tax Rules, 1939 - Rule 9 - Rebate under section 7 - Amendment - Proposal - Papers record

SUPERINTENDENT.